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Ruling keeps roads, land measures off Ariz. ballot

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PHOENIX (AP) -- A court ruling Tuesday means initiative measures on transportation funding and state trust land won't appear on Arizona's general election ballot, dealing setbacks to Gov. Janet Napolitano and her allies on the two growth issues.

Napolitano called the transportation measure's omission from the ballot "a tremendous disappointment," and she urged Arizona legislators to act on the issue during their 2009 session.

A separate Supreme Court order also issued Tuesday upholds a judge's rejection of a challenge by homebuilders to a homeowners' rights initiative. That measure, Proposition 201, stays on the ballot.

Other Arizona ballot measures deal with questions on same-sex marriage, payday loans, hiring of illegal immigrants, taxes on home sales, health care choices, legislative pay and restrictions on ballot measures.

Meanwhile, the status of a ballot measure to dismangle affirmative action programs remained up in the air. Supporters of Proposition 104 continued to review disqualified petition signatures and had not decided whether to sue to challenge its decertification, said campaign manager Max MacPhail.

Election officials who reviewed qualifying petitions for Proposition 203 on transportation funding and Proposition 103 on trust land had determined that neither had enough valid voter signatures.

Supporters sued to challenge those actions but a trial judge ruled Thursday that supporters missed a previously ignored deadline to challenge petition checks by Secretary of State Jan Brewer's office that were part of those reviews. County officials also reviewed signatures on some petitions.

The Supreme Court's order Tuesday upholds the judge's ruling. Paul Eckstein, a lawyer representing supporters of both initiatives, said the high court's action means neither proposal will be on the ballot.

Proposition 203, titled "Transportation Infrastructure Moving Arizona's Economy," or TIME, by supporters, would have raised the state sales tax by a penny to pay for highway and other transportation improvements, including new rail service.

Arizona highways are crowded, particularly in the urban areas, and Napolitano had argued that the proposed tax increase would be worth the extra cost.

While the court "essentially puts an end to our process," the transportation issue can't be ignored because growth will continue and the state Department of Transportation in two years won't have enough money to do more than maintenance, said Proposition 203 backer David Martin.

"Something has to be done," said Martin, a top official of a statewide contractors group.

Martin said he wants the Legislature to approve a version of the proposal without waiting to refer it to voters. "It will be my druthers that they make the tough decision."

Lawmakers should tackle the issue head-on and in a bipartisan fashion, said Roc Arnett, former state Transportation Board president. "There's got to be buy-in from Kingman to Show Low to Safford to Tucson to Phoenix and all the way in between."

A critic of the transportation measure and its tax increase welcomed its omission from the ballot.

"This was the wrong plan at the wrong time and now the debate over transportation funding can take place where it should - at the Legislature," said Steve Voeller, president of the Arizona Free Enterprise Club.

Calls by Napolitano and others for legislative action on transportation funding were largely ignored by lawmakers during the 2008 session, and Senate Transportation Chairman Ron Gould, R-Lake Havasu City, said Tuesday he'd continue to refuse to have his committee consider a tax increase.

The answer is to stop diverting transportation dollars to pay for Highway Patrol operations and to take a "sharp pencil" to the entire state budget to pay for critical needs, Gould said.

Proposition 103 would have set aside more than 570,000 acres of trust land as open space and given the Land Department new authority in its management of the 9.3 million acres still left of property provided by the federal government nearly a century ago. Money from sales and leases goes to public education and other designated beneficiaries.

While supporters of the transportation measure talked about possible legislative action, a leading backer of the trust land measure said the impact of the ruling was still settling in.

However, members of the coalition that forged Proposition 103 stand by its goals of protecting open space and funding for education, said Pat Graham, Nature Conservancy state director.

Arizona voters in 2006 rejected a similar trust land measure as well as a rival one that would have conserved less land. Legislators have tried for years to forge a consensus proposal on the issue, the latest such effort collapsing last spring.

The Supreme Court released both decisions Tuesday in brief, one-page orders signed by Chief Justice Ruth V. McGregor. As is typical in last-minute election cases, the orders said the justices will explain their reasoning later.

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